

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM A. BANNISTER and DEPARTMENT OF TRANSPORTATION,
PRINTING PLANT, Washington, D.C.

*Docket No. 97-1208; Submitted on the Record;
Issued June 1, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issues are: (1) whether appellant sustained a ratable hearing loss in the performance of duty causally related to factors of his federal employment; and (2) whether the Office of Workers' Compensation Programs properly denied appellant's request for a hearing aid.

On May 10, 1996 appellant, then a 52-year-old offset duplicating press operator, filed an occupational disease claim alleging that he sustained a hearing loss due to noise exposure at work.

By letter dated October 8, 1996, the Office referred appellant to Dr. Richard Israel, an audiologist, and Dr. Robert Baumgartner, a Board-certified otolaryngologist, for an examination and evaluation as to whether appellant had sustained any employment-related hearing loss.

In a report dated October 21, 1996, Dr. Israel related that he had performed a complete audiological evaluation of appellant on October 17, 1996 and that he had also received an otologic examination from Dr. Baumgartner on that date. He noted that the statement of accepted facts in the case indicated that appellant had worked for the employing establishment from 1970 as a pressman and as a printing specialist and had received a great deal of noise exposure, primarily in the period 1970 through 1985. Dr. Israel stated that pure tone threshold audiometry revealed hearing within normal limits in the left ear through 4,000 cycles per second, followed by mild hearing loss for higher frequencies. He stated that in the right ear the hearing was within normal limits through 2,000 cycles per second followed by mild to moderate sensorineural loss for higher frequencies. Dr. Israel stated that, due to the audiometric configuration and specifics of appellant's work history, the hearing loss in the right ear appeared to be noise induced. He stated that his opinion that all of the data obtained was valid and reliable and the date of the last audiometry equipment calibration was provided. The audiometric test results revealed the following findings at 500, 1,000, 2,000 and 3,000 cycles per second; 5, 10, 5 and 15 decibels in the left ear respectively, and 0, 5, 10 and 50 decibels in the right ear. Dr. Israel stated his opinion that appellant was not a candidate for hearing aid use at that time.

In a report dated October 23, 1996, Dr. Baumgartner related that he performed an otologic evaluation of appellant on October 17, 1996 and he included the audiometric test results obtained by Dr. Israel. He noted that appellant had a long history of noise exposure. Dr. Baumgartner stated his impression that appellant's hearing loss was related to his noise exposure. He indicated that appellant was not a candidate for a hearing aid at that time.

By letter dated October 30, 1996, the Office accepted appellant's claim for binaural hearing loss.

In a report dated October 29, 1996, an Office medical adviser determined that appellant had a zero percent binaural hearing loss based on the audiometric findings in the reports of Drs. Israel and Baumgartner.

By decision dated December 16, 1996, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to establish that he had sustained any ratable hearing loss causally related to factors of his employment.

The Board finds that appellant did not sustain a ratable hearing loss in the performance of duty.

The Federal Employees' Compensation Act schedule award provisions set forth the number of weeks of compensation to be paid for permanent loss of use of members of the body that are listed in the schedule.¹ The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such a determination is a matter which rests in the sound discretion of the Office.² However, as a matter of administrative practice the Board has stated, "For consistent results and to insure equal justice under law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants."³

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.⁴ Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged. Then, the "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions. The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss. The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss; the lesser loss is multiplied by five, then added to the greater loss and the total is divided by six to arrive at the amount of the

¹ 5 U.S.C. § 8107.

² *Danniel C. Goings*, 37 ECAB 781, 783 (1986); *Richard Beggs*, 28 ECAB 387, 390-91 (1977).

³ *Henry L. King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

⁴ *George L. Cooper*, 40 ECAB 296, 302 (1988).

binaural hearing loss. The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁵

In the instant case, the Office medical adviser correctly applied the Office's standardized procedures for determining hearing loss to the audiometric test results obtained for Dr. Baumgartner on October 17, 1996. For the left ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, he added the decibel losses of 5, 10, 5 and 15, respectively. These losses were totalled at 35 decibels and divided by 4 to arrive at an average hearing loss of 8.75 decibels. The average loss was reduced by the fence of 25 decibels and multiplied by 1.5 to equal a 0 percent monaural hearing loss in the left ear.

For the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second the Office medical adviser added the decibel losses of 0, 5, 10 and 50, respectively, for a total of 65 decibels which was then divided by 4 to arrive at an average hearing loss of 16.25 decibels. This loss was then reduced by the fence of 25 decibels and multiplied by 1.5 for a 0 percent monaural hearing loss in the right ear.

Appellant has submitted no medical evidence showing that he sustained any ratable hearing impairment. Therefore, the Office properly denied his claim.

The Board further finds that the Office properly denied appellant's request for a hearing aid.

Section 8103(a) of the Act⁶ provides for furnishing to an employee injured in the performance of duty "the services, appliances, and supplies prescribed or recommended by a qualified physician" which the Office under authority delegated by the Secretary of Labor, "considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation."

In this case, Dr. Israel and Dr. Baumgartner stated that appellant was not a candidate for a hearing aid and appellant has not submitted a report from any other physician prescribing or recommending a hearing aid. Therefore, the Office properly denied appellant's request for a hearing aid.

⁵ *Donald A. Larson*, 41 ECAB 947, 951 (1990).

⁶ 5 U.S.C. § 8103(a).

The decision of the Office of Workers' Compensation Programs dated December 16, 1996 is affirmed.

Dated, Washington, D.C.
June 1, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member